

## **REMARKS**

This is in response to the Office Action dated October 4, 2003.

### **I. SUMMARY OF OFFICE ACTION**

In the Office Action, the Examiner rejected Claims 1-6 under 35 U.S.C. § 103(a) as being unpatentable over Henderson (U.S. Patent No. 4,914,732) and Hyatt (U.S. Patent No. 5,745,044) in combination with Trombly (U.S. Patent No. 4,207,555), Perron (U.S. Patent No. 4,031,434), Aston (U.S. Patent No. 5,351,042) or Kilman (U.S. Patent No. 5,479,799). In particular, the Examiner stated that "Henderson differs from the claims by not including transmitting power from the key to the lock and not including the lock transmitting a variable interrogation." (Office Action, page 3). The Examiner further stated that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Henderson the variable interrogation and encryption of Hyatt for increased security against code stealing and improper code input and to have included the inductive power transmission of Trombly, Perron, Aston or Kilman to maintain power on the lock suggested by Henderson.

The Examiner also provisionally rejected Claims 1-6 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-5 of copending Application No. 09892825.

### **II. APPLICANT'S RESPONSE**

#### **A. Claims 1-6**

In the Office Action, the Examiner rejected Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Henderson and Hyatt in combination with Trombly, Perron, Aston or Kilman. In particular, the Examiner stated that "Henderson differs from the claims by . . . not including the lock transmitting a variable interrogation." (Office Action, page 3). The Examiner further stated that "Hyatt '044 discloses an analogous art lock system with the lock transmitting a seed number to the key which is encrypted with the code returned from the key. Since the seed is updated at the lock with each operation, it provides a variable interrogation." (Office Action, page 3).

In response, Applicants respectfully direct the Examiner's attention to element c of Claim 1 which recites that a key decodes a received variable interrogation signal to ... identify a variable interrogation question wherein the variable interrogation question is one of a plurality of possible interrogation questions. This subject matter is further explained in paragraphs 10, 64 and 65 of the specification of the above-identified patent application. In particular, such paragraphs explain that the lock controller 32 has a plurality of possible interrogation questions (i.e., multiple stored cipher variables) wherein one of the plurality of possible interrogation questions are transmitted to the key based on a number generated by a random number generator. The key then builds an interrogation response signal which includes an answer to the transmitted interrogation question. The interrogation question transmitted by the lock controller and the answer transmitted by the key do not depend upon the prior interaction between the lock controller and the key, but rather is randomly generated. The lock controller may transmit any one of the plurality of possible interrogation questions each time the lock controller and the key interact.

In contrast, Hyatt, which the Examiner relies upon for support of a variable interrogation, does not disclose a processor of a key that is operative to interpret any one of a plurality of possible interrogation questions received by the key from a lock controller. Column 8, lines 23-40 further explains the "seed" subject matter which, as understood, provides the basis for the variable interrogation. Such referenced section of Hyatt discloses that the seed number of the lock controller and the key are compared and if they match, then the key may be operative to open the lock. Thereafter, a new seed number is generated and stored on the key which, as understood, is used to unlock the lock at the next instant when the key is used to unlock the lock. In Hyatt, the lock controller has only one possible interrogation question when the key and lock controller interact. It is related to the "seed" generated during the prior interaction between the key and the lock controller. The lock controller transmits an interrogation question which is dependent upon the "seed" generated during the prior interaction of the lock controller and the key.

Accordingly, the disclosure of Hyatt does not disclose the specific limitation of the processor operative to interpret one of a plurality of possible interrogation questions, as recited in amended Claim 1. Hence, Claim 1 is believed to be in condition for allowance.

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Also, the dependent claims of Claim 1, namely, Claims 2-5 are believed to be in condition for being dependent upon an allowable base claim. Further, Claims 2-5 are also believed to be in condition for allowance for containing additional patentable subject matter.

B. PROVISION DOUBLE PATENTING REJECTION

In the Office Action, the Examiner provisionally rejected Claims 22-24 under the judicially created doctrine of obviousness-type double patenting. In response, Applicant submits concurrently herewith a terminal disclaimer in compliance with 37 CFR 1.321(c), as Exhibit 1. As such, Applicant respectfully submits that the submission of the terminal disclaimer overcomes the Examiner's provisional rejection of Claims 1-5 under the judicially created doctrine of obviousness-type double patenting.

CONCLUSION

For the foregoing reasons, Claims 1-5 are believed to be in condition for allowance. Accordingly, an early Notice of Allowance is therefore respectfully requested. Should the Examiner have any suggestions for expediting allowance of the above-identified patent application, the Examiner is invited to contact the Applicant's representative at the number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: June 6, 2005 By: \_\_\_\_\_

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